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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,560	08/15/2001	Bernhard Lucas	1647	2388

7590 08/26/2003
Striker Striker & Stenby
103 East Neck Road
Huntington, NY 11743

EXAMINER

MORRISON, NASCHICA SANDERS

ART UNIT PAPER NUMBER

3632

DATE MAILED: 08/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/913,560

Applicant(s)

LUCAS ET AL.

Examiner

Naschica S Morrison

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9,13,14,16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9,13,14,16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This is the third Office Action for serial number 09/913,560, Mount for Adjustably Positioning a Housing, filed on August 15, 2001. Claims 9, 13, 14, 16 and 17 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

Claims 9, 13, 14, 16, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites "the emission direction" in line 16. There is insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 9, 13, 14, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Admitted Prior Art of Figure 1 (APA) in view of U.S. Patent 5,309,780 to Schmitt and further in view of Japanese Patent 01148640 to Kihara. With regards to claims 9, 13, 14, 16, and 17, the APA discloses a mount (2) comprising: a base plate (defined by 2 generally) having three adjusting screws (9, 10, unseen screw) mounted therein by plastic inserts (rectangular members adjacent 9 and 10), wherein

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two of the adjusting screws (10, unseen screw) are located in diagonally opposed corners of the base plate, and the adjusting screws are guided by screw threads in the inserts. The APA does not disclose the adjusting screws including a deflecting linkage. Schmitt teaches a mount (Figs. 2 and 3) comprising: an adjusting screw (30) guided by a self-channeling screw thread (56) in a base housing (26), the adjusting screw (30) provided with a deflecting linkage, the deflecting linkage comprising bevel gears (62, 64), wherein one of the bevel gears (64) is mounted on the adjusting screw (30) and is movable and pressable against the other bevel gear (62), and a rotary spindle (28) guided on the base housing (26) and turnable (32) in order to turn the adjusting screw (30) to provide an adjustment of a device (22) in contact therewith, the rotary spindle (28) having the other bevel gear (62) mounted thereon; wherein the deflecting linkage is operative to produce a deflection of a rotary motion of the rotary spindle at approximately a right angle such that rotation of the rotary screw takes place perpendicular to adjusting screw. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the mount of the APA by substituting the adjusting screw arrangement disclosed by Schmitt for the adjusting screws (9, 10, unseen screw) because one would have been motivated to permit a user to control the movement and adjustment of the device from a more conveniently accessible position as taught by Schmitt (col. 1, lines 12-15). The APA in view of Schmitt does not teach the bevel gear (64) being spring biased. Kihara discloses a bevel gear arrangement comprising a first bevel gear (13) being movable and pressable against a second bevel gear (11) by a spring (8). It would have been obvious to one of

ordinary skill in the art at the time the invention was made to have modified the mount to include a spring engaged with the bevel gear (64) because one would have been motivated to provide a means for energizing (biasing) the bevel gear in the engaging direction of the other bevel gear (62) as taught by Kihara (see English Abstract).

Response to Arguments

Applicant's arguments filed 6/5/03 have been considered but are not persuasive. In response to applicant's argument regarding the newly added limitation in claim 9, examiner disagrees that the references as combined would not be lead to the present invention as defined in amended claim 9. Schmitt teaches an adjustment arrangement that includes a deflecting linkage which provides for deflection of the rotary motion of the rotary spindle such that spindle rotates approximately perpendicular to the adjusting shaft. Therefore, the combination of the APA and Schmitt provides a deflecting linkage which further provides for rotation of the rotary spindle approximately perpendicular to the emission direction since the adjusting shaft as shown in Fig. 1 is inherently parallel to the emission direction.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within


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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine telephone number for the Technology Center is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 872-9325.

Naschica S. Morrison
Patent Examiner
Art Unit 3632
8/14/03


LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER